IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA WESTERN DIVISION No. 5:10-HC-2084-FL ROBERT JOHN SEGER, Petitioner, V. ORDER TRACY JOHNS, Respondent.

On February 4, 2011, the court issued an order (DE #11) allowing petitioner fourteen (14) days to show cause why his case should not be dismissed in light of the holding in <u>Timms v. Johns</u>, 627 F.3d 525 (4th Cir. 2010). Petitioner filed a response (DE # 12) indicating Petitioner does not oppose a dismissal without prejudice.

Accordingly, the petition for writ of habeas corpus is DISMISSED WITHOUT PREJUDICE.

Respondent's motion to dismiss (DE # 5) and respondent's motion to stay proceedings (DE # 9) are hereby DENIED AS MOOT. The Clerk is DIRECTED to CLOSE this case.

SO ORDERED, this 3 day of March 2011.

LOUISE W. FLANAGAN
Chief United States District Judge